

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA 09-08

Introduced by Agency Member Quirk

RESOLUTION APPROVING THE SUBMITTAL OF AN  
APPLICATION TO THE CALIFORNIA STATE DEPARTMENT  
OF HOUSING AND COMMUNITY DEVELOPMENT FOR  
FUNDING UNDER THE INFILL INFRASTRUCTURE GRANT  
PROGRAM, PROPOSITION 1C

WHEREAS, the City of Hayward wishes to apply for and receive an allocation of funds through the Infill Infrastructure Grant Program (Proposition 1C) and the Redevelopment Agency of the City of Hayward wishes to be a co-applicant for the program funds; and

WHEREAS, the California Department of Housing and Community Development (hereinafter referred to as "HCD") has issued a Notice of Funding Availability ("NOFA") for the Infill Infrastructure Grant Program established under the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C), pursuant to the Infill Infrastructure Grant Program established as Part 12 of Division 31 of the Health and Safety Code, commencing with Section 53545.12. Pursuant to that statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature, subject to the terms and conditions of the statute and the Infill Infrastructure Grant Program Guidelines implemented January 30, 2009; and

WHEREAS, concurrently herewith, the Agency has adopted Resolution No. RA 09-09, conditionally approving the commitment of up to \$19,800,000 in local matching funds for the South Hayward Mixed Use Project, and wishes to be a co-applicant with City of Hayward on its application to obtain from HCD an allocation of the Infill Infrastructure Grant Program funds in the amount of \$30,000,000.

NOW, THEREFORE, BE IT RESOLVED, by the Redevelopment Agency of the City of Hayward that:

1. The Agency shall be a co-applicant with the City of Hayward on its application to HCD to participate in the Infill Infrastructure Grant Program in response to the NOFA issued on January 30, 2009, which will request a funding allocation in the amount of \$30,000,000 for the following activities: The development of the South Hayward Mixed Use Project, a transit-oriented development, comprised of 788 housing units, including 206 units of affordable housing, a 58,500 square-foot Safeway supermarket, residential and commercial parking and a seven-level 910-space parking structure to serve the South Hayward BART Station. The South Hayward Mixed Use Project is located at 28601 and 28850 Dixon Street and 28901-28953 Mission Boulevard, Hayward, California.

2. If the application for funding is approved, the Agrees hereby agrees to use the Infill Infrastructure Grant Program funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program Guidelines cited above. It also may execute any and all other instruments necessary or required by HCD for participation in the Infill Infrastructure Grant Program.

3. The Executive Director is hereby authorized to execute in the name of the Redevelopment Agency of the City of Hayward the application, the Standard Agreement, and all other documents required by HCD for participation in the Infill Infrastructure Grant Program, and any amendments thereto.

HAYWARD, CALIFORNIA March 17, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS: Zermeno, Quirk, Halliday, May, Dowling, Henson  
CHAIR: Sweeney

NOES: AGENCY MEMBERS: None

ABSTAIN: AGENCY MEMBERS: None

ABSENT: AGENCY MEMBERS: None

ATTEST:

Miriam Lens  
Secretary of the Redevelopment Agency  
of the City of Hayward

APPROVED AS TO FORM:

Michael S. Farrow  
General Counsel



I hereby certify that this is a correct copy of a  
document on file in this office

MIRIAM LENS  
City Clerk, City of Hayward, California

By:

Miriam Lens  
Deputy

Date:

March 24, 2009

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA 09-09

Introduced by Agency Member Quirk

RESOLUTION CONDITIONALLY APPROVING THE REDEVELOPMENT AGENCY'S COMMITMENT OF LOCAL MATCHING FUNDS FOR PROPOSITION 1C GRANT FUNDS FOR THE PROPOSED SOUTH HAYWARD BAY AREA RAPID TRANSIT ("BART") STATION MIXED-USE DEVELOPMENT IN AN AMOUNT NOT TO EXCEED NINETEEN MILLION, EIGHT HUNDRED THOUSAND DOLLARS (\$19,800,000), WITH A MAXIMUM OF SEVEN MILLION, ONE HUNDRED THOUSAND DOLLARS (\$7,100,000) ATTRIBUTABLE TO AFFORDABLE HOUSING DEVELOPMENT AND A MAXIMUM OF TWELVE MILLION, SEVEN HUNDRED THOUSAND DOLLARS (\$12,700,000) ATTRIBUTABLE TO PUBLIC IMPROVEMENTS INCLUDING PUBLIC PARKING

WHEREAS, the City Council of the City of Hayward ("City") has adopted a redevelopment plan for the Downtown Hayward Redevelopment Project ("Redevelopment Project Area") by Ordinance No. 75-029C.S., as amended, which is being implemented by the Redevelopment Agency of the City of Hayward ("Agency"); and

WHEREAS, in June of 2006, the City Council adopted a South Hayward BART/Mission Boulevard Concept Design Plan ("Design Plan") which seeks to encourage and provide the framework for redevelopment that will result in a transit village around the South Hayward BART Station ("BART Station") and an enhanced Mission Boulevard corridor; and

WHEREAS, also in 2006, BART completed a "South Hayward BART Development, Design and Access Plan" for the BART Station, which plan was created to complement the City's planning efforts and to analyze access improvements and transit-oriented development opportunities in the area of the approximately 12-acre BART Station and the approximately one-half mile surrounding it. The approximately 12 acres comprising the BART Station includes 2 surface parking lots, having approximately 1,200 surface parking spaces, and a bus intermodal facility and is zoned in compliance with the City's Station Area Residential ("SAR") Zoning District; and

WHEREAS, Wittek Development, LLC ("Developer") owns certain real property adjacent to the BART satellite parking lot on Dixon Street ("BART Satellite Lot"), having a primary frontage on Mission Boulevard and consisting of about 2.9 acres ("Developer Property"), and intends, together with Montana Properties, Inc., to develop the BART Satellite Lot along with the Developer Property; and

WHEREAS, Developer's proposed project ("Project") would be a mixed-use retail and housing development that is generally in compliance with the Design Plan, the SAR Zoning District and the City's General Plan, and includes 788 units of housing and a Safeway grocery store. The proposal includes 206 units of affordable housing to be developed by Eden Housing. Also included in the Project will be a seven-level, 910-space replacement parking garage for BART parking and circulation features required for Alameda County Transit ("AC Transit"); and

WHEREAS, the current market conditions require that the Project be developed in phases: (A) Phase 1 - a 58,500 square-foot Safeway grocery store with 125 affordable family apartments directly above the store, to be designed, constructed and managed by Eden Housing, and 81 affordable senior apartments, also to be designed, constructed and managed by Eden Housing, over a 3-level parking structure that would serve both affordable housing projects; (B) Phase 2 - the seven-level BART parking garage; (C) Phase 3 - 241 units of market-rate rental housing with contiguous subterranean parking in two buildings directly adjacent to the BART Station; and (D) Phase 4 - 341 small commercial and live-work ownership units over a podium and subterranean parking, these particular units to be built in 4 phases of approximately 85 units each; and

WHEREAS, Developer and the Bay Area Rapid Transit District, a rapid transit district established pursuant to Public Utilities Code Section 285000 *et seq.* (also known as BART), have entered into an Exclusive Negotiating Agreement ("ENA") effective February 5, 2009, providing for the further assessment of the feasibility of developing the Project consistent with the manner described above, and, should the Project prove feasible, the ENA provides for the establishment of terms governing the sale, exchange or ground lease of all or part of the BART-owned surface parking areas; and

WHEREAS, because the long-term economics of the Project are contingent in great part upon the ability to fund the affordable housing and major infrastructure improvements associated with reuse of the BART-owned surface parking areas, Developer is working to make the Project competitive for infrastructure and transit-oriented development ("TOD") funding available from the State of California under its Proposition 1C (the Housing and Emergency Shelter Trust Fund Act of 2006) program. This significant funding source may only be available during 2009, and a successful application could generate approximately \$30,000,000 for the infrastructure components of the Project and \$17,000,000 for the affordable housing developments. As the deadline to submit these applications is April 1, 2009, time is of the essence in this application process, necessitating City Council and Redevelopment Agency Board public hearings for the Project no later than March 2009; and



WHEREAS, the City, as the necessary applicant for the Proposition 1C funds described above, is seeking the maximum \$47,000,000 in grant funds, and, in order to obtain maximum scoring for the Proposition 1C grant, there is an associated goal of providing matching funds: \$6,000,000 to be spent by the partnering agencies from stimulus funds and \$19,800,000 from the Agency (anticipated to come from the Agency's low/moderate-income housing set-aside fund for the affordable housing component, as well as from Agency-issued bonds); and

WHEREAS, in connection with the Project, City staff have prepared both an initial study and mitigated negative declaration ("Mitigated Negative Declaration") pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et seq.*), including a mitigation monitoring plan, and notice of intent to adopt the Mitigated Negative Declaration has been given as required by law; and

WHEREAS, the Agency has independently reviewed and considered the information contained in the initial study upon which the Mitigated Negative Declaration is based, certifies that the Mitigated Negative Declaration has been completed in compliance with the requirements of CEQA and finds that the Mitigated Negative Declaration, which must be viewed and analyzed in light of the Conditions of Approval, reflects the independent judgment of the Agency; and

WHEREAS, the Agency independently agrees with the City staff's conclusion that potentially significant environmental impacts related to traffic will be mitigated to a level of insignificance through the implementation of mitigation measures.

NOW THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Hayward that it is committed to pursuing and providing the Proposition 1C local matching funds for the Project in the maximum amount of \$19,800,000, consisting of approximately \$7,100,000 for affordable housing developments and \$12,700,000 for public improvements, including public parking, said commitment of the Agency, being specifically conditioned upon the occurrence of the following to the Agency's satisfaction:

1. The City, Agency and Eden Housing successfully obtain Proposition 1C grant funding for the Project in the approximate amount of \$47,000,000.
2. The Agency is able to issue sufficient tax exempt bonds for the Project and the privately-held market-rate portion of the Project generates sufficient tax increment to repay the Agency's total financing costs related to the project within a commercially reasonable time period, but no later than the expiration of the term of the bond issue.
3. Developer and Eden Housing make a good faith effort to obtain other affordable housing funding, equity capital and institutional lender financing sufficient to build the affordable housing portions of the Project, including, but not limited to, Community Development Block Grant (CDBG) funding, City and/or County HOME funding, the Federal Home Loan Bank's Affordable Housing Program (AHP) funding, the Metropolitan

Transportation Commission's Transportation for Livable Communities (TLC) program funding, mortgage revenue bonds and affordable housing tax credits.

4. Developer and BART make a good faith effort to pursue and obtain other public and private sources of financing, as available, to finance the entire proposed Project, including market rate residential, retail, parking and other site improvements. Residual financing proceeds shall be used to offset the Agency's investment.

5. Developer shall sufficiently address any and all requests for financial information related to the Project from the Agency to the Agency's satisfaction, and the Agency shall make the appropriate determinations related to the Developer's financial capability to perform.

6. Developer enters into a Disposition and Development Agreement (or other acceptable land exchange agreement) with BART for the site, and, in the event said land disposition is not consummated, the Agency, at its option, is relieved of any and all financial obligations hereunder.

7. Developer enters into an Owner Participation Agreement with the Agency, in a form approved by the Agency Board, specifying not only the applicable design and development standards, but the conditions associated with the Agency's provision of a portion of the Proposition 1C local matching funds (including the Project securing the maximum Proposition 1C funds possible and the proponents of the Project securing other funds from BART, AC Transit and other entities).

8. To address costs associated with public services, including police services, City and/or Agency will assess impacts and are recommending, as a condition of approval of the Project, the formation of a Community Facilities District ("CFD") to provide for the Project's payment for its proportional share of such services. Actual assessments will be determined when the CFD is formed.

9. Agency, Developer and BART enter into an agreement (or agreements) in a form approved by the Agency Board, containing provisions regarding, but not limited to the following:

A. Developer's commitment to obtain building permits and commence physical construction of the market rate for-sale and rental portions of the Project within a reasonable period of time, but in no event later than five years beyond the date of the award of the Proposition 1C Infill Grant, and to pursue continuous construction of the Project to completion within three years, and, in any event, to complete the entire Project to certificates of occupancy for all residential development and the acceptance of public improvements no later than eight years beyond the award of the Proposition 1C Infill Grant, unless otherwise mutually agreed upon by the applicable parties.

B. Agency's, BART's and Developer's agreement regarding construction, ownership, maintenance and operation of the BART replacement parking structure.

C. Assurances to the Agency regarding its right and option to assume and assign the Developer's development rights to the previously BART-owned parking areas, subject to the applicable land transfer agreement entered into by said parties, including both market rate and affordable housing and retail, in the event of non-performance for a period of time deemed unreasonable in the Agency's sole discretion.

D. Upon entering into the subject agreement(s) with the Agency, Developer shall, either through use of a quitclaim deed, right of first refusal or some other mutually acceptable method, provide for the Agency's ability to acquire the Developer Property and any of the BART-owned parking areas related to the Project, in the event that the Developer does not start and complete the development in accordance with the general conditions outlined herein and/or the terms of any agreement between the Agency, the Developer and/or BART.

HAYWARD, CALIFORNIA March 17, 2009

ADOPTED BY THE FOLLOWING VOTE:

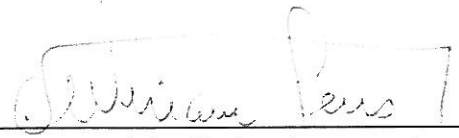
AYES: AGENCY MEMBERS: Zermeño, Quirk, Halliday, May, Dowling, Henson  
CHAIR: Sweeney

NOES: AGENCY MEMBERS: None


ABSTAIN: AGENCY MEMBERS: None

ABSENT: AGENCY MEMBERS: None

ATTEST:

  
Secretary of the Redevelopment Agency  
of the City of Hayward

APPROVED AS TO FORM:

  
General Counsel

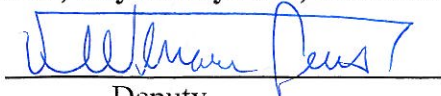


I hereby certify that this is a correct copy of a document on file in this office

MIRIAM LENS

City Clerk, City of Hayward, California

By:

  
Deputy

Date:

March 24, 2009

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-025

Introduced by Council Member Quirk

RESOLUTION ADOPTING THE MITIGATED NEGATIVE  
DECLARATION AND RELATED MITIGATION  
MONITORING AND REPORTING PROGRAM AND  
APPROVING ZONE CHANGE APPLICATION NO.  
PL-2008-0547 FOR A MIXED-USE PROJECT IN THE SOUTH  
HAYWARD BART/MISSION BOULEVARD CONCEPT  
DESIGN PLAN AREA

WHEREAS, Zone Change Application No. PL-2008-0547, submitted by Wittek Development LLC (Applicants) and Big Sky Holdings and Bay Area Rapid Transit (Owners), concerns a request to: 1) Change the zoning district from Station Area Residential (SAR) District to Planned Development (PD) District and approve the preliminary development plan; and 2) amend the South Hayward BART/Mission Boulevard Concept Design Plan to address a revised circulation system, a relocated grocery store site and the BART parking structure in order to construct a mixed-use development consisting of 788 multi-family residential units and a grocery store, including 206 units of affordable housing and a 910-space BART parking garage (the "Project"), located generally at the South Hayward BART station, between the BART station and Mission Boulevard, at 28601 and 28850 Dixon Street and 28901-28953 Mission Boulevard, APN Nos. 078C-0441-001-16, -17, -23, -24, -28, & -29; and

WHEREAS, at the hearing on February 19, 2009, on the Project, the Planning Commission recommended that the City Council adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, and approve the Zone Change, the Preliminary Development Plan and the amendments to the Concept Design Plan; and

WHEREAS, a notice of the City Council Public Hearing was mailed to property owners and occupants within 300 feet of the project site and a notice of public hearing was published in the Daily Review, as required by law.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines that:

CEQA

1. The Project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA), and an Initial Study has been prepared for the Project. The Initial Study has determined that the Project, with the recommended mitigation measures, will not result in significant effects on the environment, and a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program have been prepared and are hereby adopted.

## Zone Change- Planned Development

2. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies. The Project is consistent with the policies and designations of the City's General Plan designation of Station Area Density and the South Hayward BART/Mission Boulevard Concept Design Plan (75 to 100 units per net acre), in that the development is proposed at 76 units per net acre, and, excluding the BART parking structure on Parcel 4, the net density of the project would be 84 units per net acre. Also, the project will further the City's goal to provide ownership housing opportunities as expressed in the Housing Element of the General Plan and will help further the City's Housing Element policy to provide housing opportunities for all household income levels in that 206 rental housing units for low-income senior and family households would be provided in the City as a result of the Project.
3. Streets and utilities, existing or proposed, are adequate to serve the development, in that existing infrastructure and utility improvements, as conditioned, would be adequate to serve the development, which is proposed at a density that is consistent with existing General Plan designations. Also the project, as conditioned, would have no significant impact related to neighborhood traffic.
4. The development creates a residential environment of sustained desirability and stability, in that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse affect upon surrounding development. The Mission-Garin neighborhood is deficient in park space; however, the Project would provide its residents with a combination of both private and public internal recreation space. To mitigate the proposed shortfall of group open space, a condition of approval requires that the developer acquire, improve and offer to the public as parkland the adjacent Caltrans parcels along the southern edge of the project area between Dixon Street and Mission Boulevard. In addition, the project would contribute \$6,212,068 of park dedication in-lieu fees associated with the 582 market rate units proposed, to improve area park facilities. A full-sized modern Safeway store proposed as part of the Project would contribute to the viability and "synergy" of the area, affording nearby residents, BART commuters, and other convenient and desired retail services in this portion of Hayward, as well as incentive for future development in the immediate vicinity. Additionally, the Project is conditioned on participation in a future Community Facilities District, which would generate a funding source for public safety services, including police services.



5. Any latitude or exception(s) to development of regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards. The averaging of the density across the entire Project, rather than requiring it to be met on each parcel, is offset by the provision of the grocery store and public art as a neighborhood amenity; this amenity would be not only an asset to the project residents, but also the residents of the greater South Hayward area.

#### Findings In Support of Heights in Excess of Sixty Feet

6. The additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage. The conceptual design of the development reflects an urban design of high quality and interest. Also, the additional height is limited in area, is located within the interior of the site and would provide additional interest to this building from various vantage points. A condition of approval requires that more detailed plans be submitted as part of the Precise Development Plan and undergo design review approval, through which the Planning Commission will ensure the architectural features, materials and design are in accordance with this condition. A condition of approval also requires that a public art feature or features be provided to enhance the overall development. In summary, the Project, as conditioned, allows this finding to be made.
7. The additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way, or otherwise be detrimental to the public health, safety and welfare. The portions of the proposed building on Parcel 2 that would exceed the normal 60-foot height standard are limited in area and confined to the central portion of the site, minimizing impacts related to light and air. As with any development, the building construction drawings will be required to be prepared by a licensed professional and conform to current code requirements, which will ensure that no impacts associated with public health, safety and welfare will occur.
8. The additional height will support other policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better overall project. The additional height would not only provide a variation in building form and massing that would add interest to the building and overall

Project design, but the height would also afford additional opportunities to maximize west-facing window areas, to take full advantage of views and natural light.

BE IT FURTHER RESOLVED that, based on the above findings, Zone Change Application No. PL-2008-0547, the related Preliminary Development Plan and the amendments to the South Hayward BART/Mission Boulevard Concept Design Plan are hereby approved, subject to the adoption of the companion ordinance and the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA March 17, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermeno, Quirk, Halliday, May, Dowling, Henson  
MAYOR: Sweeney

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: Miriam Lens  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

Michael S. Jensen  
City Attorney of the City of Hayward



I hereby certify that this is a correct copy of a document on file in this office

MIRIAM LENS

City Clerk, City of Hayward, California

By: Miriam Lens  
Deputy

Date: March 24, 2009

## **CONDITIONS OF APPROVAL**

### **SOUTH HAYWARD BART STATION DEVELOPMENT 28601 DIXON STREET Zone Change Application No. PL-2008-0547 PD Wittek Development LLC (Applicant)**

Planned Development District No. PL-2008-0547 PD to accommodate construction of a mixed-use development consisting of 788 multi-family residential units, including 206 units of affordable housing, a grocery store and other miscellaneous retail uses, and a 910-space BART parking garage shall be developed according to these conditions of approval and in substantial conformance with the preliminary development plan labeled in the City files as "Exhibit A." Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.

The Zone Change for the Planned Development District becomes void one year following the effective date of approval of the Preliminary Development Plan by the City Council, unless before that time, a Precise Development Plan is submitted. A one-year extension for the Preliminary Development Plan, approval of which is not guaranteed, may be granted by the City Council, provided the request for such extension is submitted at least 30 days prior to the expiration of the original approval. A request for a second one-year extension, approval of which is not guaranteed, may also be granted by the City Council, provided the request for such second extension is submitted at least 30 days prior to the expiration of the first extension.

The permittee shall assume the defense of, and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

Any proposals for minor alterations to the proposed site plan and/or design that do not require a variance to the Zoning Ordinance standards must be approved by the Planning Director prior to implementation.

Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward. The applicant/developer's engineer shall perform all design work unless otherwise indicated.

All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.

### **PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN**

1. Prior to submittal of improvement plans and/or final map(s) for the development, a Precise Development Plan consistent with the approved Preliminary Development Plan shall be submitted for approval by the Planning Commission, and shall include detailed landscaping and irrigation plans, detailed plans for all site amenities, including decorative

paving, decorative electroliers, fencing, sign and entry features, detailed architectural and lighting plans, samples of exterior colors and building materials, and screening of all above-ground utilities, transformers and utility meters. The Precise Plan shall also reflect the ultimate configuration of the streets and other public improvements. The Precise Development Plan shall include/address the following:

- a. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
- b. A color and materials board, consistent with that proposed with the preliminary development plan, shall be submitted for Planning Commission review and approval. No changes to colors shall be made after construction unless previously approved by the Planning Director.
- c. Decorative pavement shall be installed at the project entrances and at all interior private street intersections within the project. The Planning Director shall approve the material, color and design, and the City Engineer shall approve the pavement section.
- d. **Mitigation Measure 1:** Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas, including pathways. The Planning Commission shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of homes within the project. Lighting within the BART station plaza shall conform to BART standards.
- e. Regarding the architectural details/plans for submittal with the Precise Development Plan:
  - i. For the building proposed on Parcel 2, which is shown to exceed 60 feet in height, building design must be such that the Planning Commission makes the following findings: 1) the additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage; 2) the additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way; and 3) the additional height will support the policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better project. The following items would contribute to the ability to make these findings: 1) the provision of public art; and 2) a contribution towards the proposed community center at Mission Boulevard and Valle Vista Avenue, or at another location within the South Hayward BART/Mission Boulevard Concept Design Plan area.
  - ii. The ground floor of each mixed-use building should be proportionately higher and architecturally distinguished from the upper façade to afford generous and inviting commercial uses and to distinguish the change in use.
  - iii. Buildings on corner lots should give architectural emphasis to the building corner by incorporating a tower, plaza recess, or other architectural and urban design elements. Such elements should be well-proportioned in relation to the height of the building.
  - iv. Auto entries into buildings should be designed with articulation and detail similar to other window and door openings, such as jambs and headers.
  - v. Building form should provide a “base” and a “top” that are human-scaled.

- vi. Amenities shall be provided within the street/pedestrian corridor, connecting Dixon Street and the BART station, to support a pedestrian-oriented lifestyle, including, but not limited to, wireless access, tables and umbrellas.
  - vii. Store entries in retail sections should be spaced no farther than 50 feet apart. Entries should be recessed to enhance circulation space for pedestrians.
  - viii. Ground-floor residential units facing a street should be designed to ensure privacy, such as raised windowsill heights and elevated interior floor elevations.
  - ix. Residential lobby entries should be clearly defined and directly accessible from the main thoroughfare.
  - x. Where appropriate, accent lighting should be used to highlight interesting architectural features, signs, storefront displays, landscape features, and public art.
  - xi. Public art features, at a value of 1% of project construction costs for Parcels 1, 2 and 3, and the Perry & Key site, not including transit facilities and infrastructure improvements, shall be required and installed prior to build-out of the project. The design of such feature(s) shall be submitted with the Precise Development Plan.
  - xii. The senior housing project on Parcel 2 shall include multi-function rooms for passive recreation, which with on-site group open space, would total to an area of at least 20% of the building footprint.
- f. A street tree plan and landscape and irrigation plans shall be submitted for review and approval by the City, which shall include:
- ii. An overall landscape concept statement addressing the quality of the proposed landscape design, the quality of the pedestrian environment, safety, water conservation and stormwater treatment. Consult the South Hayward BART/Mission Boulevard Concept Design Plan for guidelines regarding development street landscape treatments and the quality of pedestrian environments.
  - iii. A comprehensive arborist report for all existing trees. The report shall be prepared by a licensed arborist and shall include the health, species, caliper, approximate height, canopy diameter and value using the latest edition of “Guide for Plant Appraisal” by the International Society of Arboriculture. Provide an ISA worksheet for each tree.
  - iv. Information providing the preliminary soil volume and structural support for the raised planters on the podium levels for trees and other planting.
  - v. A 24-inch box street tree provided at every 20-40 linear feet of street frontage.
  - vi. A table showing 1) total required and provided common open space for each parcel, and 2) total area of irrigated landscape area for each parcel.
  - vii. Conceptual plans for project entry monuments and identification signs.
  - viii. Plan showing the locations, types and description of enhanced paving throughout the project, as shown on the preliminary landscape plan.
  - ix. Conceptual plan showing linkages with nearby open space/park areas.
  - x. Conceptual plan for BART plaza improvements.
  - xi. Conceptual plan to “soften” the appearance of the structures on Parcels 2 and 4 with landscaping or alternative materials.



- xii. Screening for all above-ground utility equipment with either architectural or landscape features.
- g. Landscape plans shall specify site amenities such as, benches, tables, fencing, play equipment and barbecues, and public art for the common open space areas. The two Caltrans-owned properties adjacent to and south of the Perry & Key/BART overflow parking sites, and the emergency vehicle access area shown adjacent to Parcels 3 and 4 shall include pedestrian walkways and benches, and shall otherwise be developed to allow free-style play and recreation to meet the project's group open space requirements.
- h. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
- i. All air conditioners and utility connections for air conditioners shall be located such that all external equipment is located within an area that can be screened, and located so as to minimize noise impacts on adjacent properties. Infrastructure for air conditioning systems is required to be installed as a standard feature.
- j. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened from the streets with minimum five-gallon shrubs and/or an architectural screen, to be approved by the Planning Director.
- k. No mechanical equipment shall be placed on the roof unless it is completely screened from view by the proposed roof structure. Roof apparatus, such as vents, shall be painted to match the roof color. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by Building Code.
- l. In accordance with the City's Tree Preservation Ordinance, trees shall be provided to mitigate for any protected trees that are removed, with such trees to be at least equal in value to the trees that are being removed. These mitigation trees are required to be in addition to any required street trees, screening trees, or parking lot trees.
- m. A phasing plan shall be submitted with the Precise Plan for approval by the Planning Commission, which shall include the possible phasing of common area improvements.
- n. Regarding circulation:
  - i. The plan must include a designated paratransit stop adjacent to the BART faregates, consistent with ADA standards.
  - ii. The placement of bollards may not interfere with the effective movement of vehicles or persons.
  - iii. The plan must indicate on-site bicycle circulation and its access to the City's existing and/or planned bicycle route network, particularly access from the station to the bicycle lanes on Dixon Street.
  - iv. Indicate how the planned future pedestrian/bicycle bridge across Tennyson Road would connect with pedestrian/bicycle access to the BART Station.
  - v. The driveway into the grocery store parking garage off Dixon Street shall be improved to ensure that right-in/right-out-only movements will be available for entering and exiting.
  - vi. Indicate how adequate provision of the kiss-and-ride and taxi area will be maintained to avoid conflicts.

- vii. Where pedestrian paths cross auto lanes, the path must be clearly delineated by contrasting color, pavement pattern, lighted pedestrian crosswalks and/or raised slightly to form a raised crosswalk.
- p. A subdivision map application shall be submitted in concurrence with a Precise Development Plan consistent with the approved Preliminary Development Plan for approval by the Planning Director and the City Engineer.
- q. A geotechnical report shall be submitted for review and approval by the City Engineer prior to approval of any tentative map or building permit applications. The report shall investigate the potential hydrostatic pressure exerted onto the underground parking structures and provide necessary mitigation measures.
- r. **Mitigation Measure 10:** Prior to approval of the Precise Plan, the applicant shall submit a noise study, prepared by a qualified acoustical engineer, that makes recommendations for construction techniques to be implemented within the residential units on parcel 2 and those that face Mission Boulevard on the Perry and Key property.
- s. **Mitigation Measure 11:** A site-specific acoustic report shall be prepared for the project. The report shall include a summary of existing noise levels, an analysis of potential noise exposure levels, consistent with City of Hayward noise exposure levels and specific measures to reduce exposure levels of indoor spaces and required outdoor open spaces to City of Hayward noise standards. The acoustical report shall be submitted as part of the Precise Plan application. Implementation of this mitigation measure will reduce impacts to a less than significant level.
- t. **Mitigation Measure 13:** The formation of a Community Facility District (CFD) shall be formed to pay for the cost of providing public services prior to occupancy of any residence. The developer shall post a deposit in the amount of \$10,000 with the City in concurrence with the submittal of the Precise Development Plan application to cover the City's costs for the formation of the CFD. The exact extent of the responsibilities and public services of the CFD shall be determined during the formation of the District. Formation shall be completed prior to occupancy of the first residential unit.
- u. The Precise Plan shall incorporate features encouraged to discourage crime, such as adequate lighting, visible and accessible areas, etc., and shall be reviewed and approved by the Hayward Police Department staff.
- v. An agreement between the developer, BART, the City, and Eden Housing, as appropriate, shall be executed regarding the consequences of partial or non-development of the project. Such agreement shall include requirements for project completion and timing. The developer shall obtain building permits and commence construction of Parcels 3N & 3S and 4 no later than five years beyond the date of the award of the Proposition 1C Infill Grant, and to complete the project for all residential development no later than eight years beyond the award of the Grant, unless otherwise mutually agreed upon by all parties.
- w. Concurrence by BART and AC Transit via formal agreements that their service needs will be met by the Plan and during construction shall be executed and submitted to the City prior to start of construction.
- x. An agreement between the developer and BART shall be executed regarding the land transaction elements, replacement parking and the Community Facilities District.

y. Regarding solid waste:

I. **General Comments**

1. Trash Enclosures: Trash enclosures with a roof are required (Federal Clean Water Act) and must be able to be serviced at street level, not below grade. Storage space for recyclables is required by state law and City regulations.
2. Collection Requirements: Collection vehicles will only service enclosures by following the direction of traffic and making right turns. Trucks will not make left turns on a street that would result in the truck obstructing on-coming traffic while servicing a trash enclosure.
3. Servicing Containers Inside Enclosures: Residential buildings will receive service between 6:00 a.m. and 6:00 p.m., Monday – Friday. If trash enclosures are sited close to residential units, residents must be apprised of the collection schedule since the hauler may not be able to accommodate a request for a later collection time. Trash containers at retail sites more than 200 feet from residences may be serviced between 5:00 a.m. and 7:00 p.m., Monday – Friday.
4. To facilitate service, on-site staff may remove and return all carts or bins for garbage or recyclables from trash enclosures, or the City's franchisee, Waste Management of Alameda County (WMAC), may do so. If on-site staff removes the containers, time-certain collection services would need to be scheduled with the City's franchisee to ensure that the containers are returned to the enclosure as soon as possible. If WMAC retrieves the bins from trash enclosures, WMAC will require a key or card key if enclosures are locked. Either arrangement will need to be made by calling (510) 537-5500. Locks are available from WMAC for a nominal fee. Bins can be serviced provided that curbs are collapsed.
5. Trash Enclosure Dimensions & Layout for Retail and Residential Premises
  - a. Dimensions of trash enclosures for various bin sizes, including equivalent storage space for recyclables:  
2cy bin: 10 feet deep x 10 feet long  
3cy bin: 10 feet deep x 12 feet long  
4cy bin: 10 feet deep x 15 feet long
  - b. If compactor bin(s) are proposed for some sites, then a larger trash enclosure will be needed to accommodate the larger space required for that bin type. The architect will need to obtain specifications for compactor bins from a leasing company and provide for City review.
6. Layout
  - a. A six-inch-wide curb or bumper along the interior perimeter of the enclosure walls to protect them from damage by containers.
  - b. A six-inch-wide curb or bumper, at least three feet long, between the garbage and recycling containers, in order to secure each container in its designated area.
  - c. A minimum space of 12 inches between the garbage and recycling containers and the walls of the enclosure to allow for maneuvering the containers.

- d. Enclosure gates that hinge from the right and left corners of the enclosure and open straight out to allow the bin(s) to be pulled straight out and returned to their original location.
  - e. Enclosures constructed on a flat area with no more than a 2% grade to ensure that the driver can adequately maneuver the bin(s) in and out of the enclosure.
  - f. Signage indicating that one-half of each enclosure is for “Recyclables Only”, while the other half is for “Garbage Only”. Signs must be posted at eye-level on the exterior gates, on the interior walls (if the enclosure fronts on public property), or both, or other highly visible place.
  - g. A concrete pad located just outside each enclosure is recommended in order to accommodate the weight of the truck while servicing the containers, since asphalt can fail over time at these locations.
7. Placement and Size of Trash Enclosures: Factors that were considered in determining number, size and general location of enclosures for garbage and recyclables include convenience to residents and businesses and space constraints due to the proposed layout. Regular collection services can be accommodated using bins that are smaller than those proposed but would require collection as often as 6x/week (Monday – Saturday; the maximum available), though increased services would result in more noise and increased use of the streets.
8. Retail Garbage and Recyclables Service
- a. Trash enclosures are required for each of the retail sites. Occasionally, businesses share a trash container, though most prefer not to do so.
  - b. Recommended garbage service for restaurants (fast-food or some combination of sit-down services): 4cy bin serviced 3-6x/week; book stores, gift/print shops and similar services assumed for the sites shown typically require a 2 or 3cy bin serviced one or more times weekly.
  - c. Each enclosure must allow equivalent storage space for recyclables.
9. Residential Garbage and Recyclables Service
- a. Recommended Options for On-Site Storage of Trash and Recyclables
    - i. Require Residents to Deliver Trash and Recyclables to Designated Trash Enclosures using Steps or Elevators. Trash enclosures located equidistant from one another provide convenience and help to reinforce good habits to properly dispose of unwanted items.
    - ii. Storage Rooms on Each Floor for Garbage & Recyclables Serviced by On-Site Maintenance Staff: On-site staff would empty the carts containing garbage into compactor bin(s) or if only one trash enclosure is provided for each parcel to minimize the inconvenience created for residents’ units that are the most distant from the single enclosure. Storage rooms would use 96-gallon carts for trash and recyclables provided by WMAC. All carts would have decals provided by WMAC indicating proper use.
  - b. Options **NOT** Recommended for On-Site Storage of Trash and Recyclables
    - i. Install Compactor Bin(s) or Roll-off Compactor(s) for Garbage: If a compactor bin or compactor is proposed, on-site staff would be required

to retrieve the carts and empty the contents into the compactor to eliminate access by residents to this equipment. This option may not be required if changes to the site plans can be made to accommodate the recommended number of enclosures and collection vehicles. Doing so would avoid the additional expense to construct, install and maintain the compactors. It is also very difficult to visually evaluate effective recycling programs when using compactor bins since the storage units may not be opened.

- ii. Construct Chutes for Garbage Collection Accessible to Residents on Each Floor: The door to each chute would need to have signage provided by the property manager indicating acceptable and unacceptable items. Chutes must be three feet in diameter to avoid obstructions. On-site staff would remove obstructions from the chutes, secure the bins so that they remain at the bottom of each chute, monitor the fill-rates of the trash bins, remove bins filled with trash and replace with empty bins, and push the filled bins to the trash enclosure. Chutes may only be used to collect garbage, not recyclables, since bins are not available to store and collect recyclables. If chutes are installed, storage areas on each floor would be required for recyclables and would need to be serviced by on-site staff.

## II. **Parcel 1: Affordable Housing Over Retail**

1. Retail Garbage and Recyclables Collection: Includes proposed grocer, and two other retail stores with square footage from 1,500 - 2,000 SF.
  - a. Compactor for grocer: Maximum capacity to ensure that it can be serviced: 30cy; loading height required: 30 feet since the compactor will be serviced at a below-grade loading dock.
  - b. Large supermarket chains typically install a downstroke baler to bale cardboard boxes for backhaul to their distribution centers for recycling. State law also requires that such stores accept plastic grocery bags from the public for recycling, if they provide such bags to customers (See <http://www.ciwmb.ca.gov/LGCENTRAL/Basics/PlasticBag.htm> ). Such material may also be backhauled, either in large plastic bags or in bales. Balers should be installed indoors with adequate fire suppression features for storage of loose and baled materials. Baled materials may not be stored outside. Some supermarket chains, including Safeway, are backhauling waste produce, which is composted in Southern California (See [http://www.jgpress.com/archives/\\_free/001527.html](http://www.jgpress.com/archives/_free/001527.html) ).
2. Residential Garbage and Recyclables Collection: 165 Units
  - a. Recommend four trash enclosures, each measuring 10x12 feet, two for each of the two, three-story residential complexes and located near each of the four ends of the multi-family complex. Residents would carry their trash and recyclables to the designated enclosures.
  - b. All bins for trash would be 3cy and would require service 2x/week. Layout would be as described in 5.b.



**III. Parcel 2: Residential Over Parking Structure**

1. Residential Garbage and Recyclables Collection: 65 Units
  - a. Recommend two trash enclosures, each measuring 10x12 feet, one near each end of the three-story residential complex. Residents would carry their trash and recyclables to the designated enclosures.
  - b. All bins for trash would be 3cy and would require service 2x/week. Layout would be as described in 5.b. *Trash Enclosure Dimensions & Layout*.
2. Retail Garbage and Recyclables Collection: One 1,920 SF retail – Trash enclosure dimensions and layout are described under General Comments, 5.a. and b. *Trash Enclosure Dimensions & Layout*.

**IV. Parcel 3N: Residential; 138 Units**

1. Recommend four trash enclosures, each measuring 10x15 feet, two located near each end of the two, three-story residential complexes. Residents would carry their trash and recyclables to the designated enclosures.
2. Trash bins would be 4cy and would require service 2x/week. Layout would follow 5.b. *Trash Enclosure Layout*.

**V. Parcel 3S: Residential; 103 Units**

1. Recommend three trash enclosures each of which would measure 10x12 feet.
2. Two on the street between Dixon and the BART parking structure; both enclosures should be near but not at each end of the complex for residents' convenience.
3. Enclosure #3 should be located near the intersection of Dixon and the entrance to the below-grade parking. Recommend enclosure not be visible from Dixon to avoid illegally-dumped trash.
4. Residents would carry their trash and recyclables to the designated enclosures.
5. Trash bins would be 3cy and would require service 3x/week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.

**VI. Parcel 4: Perry Site Residential (341 Dwelling Units and Four Retail Sites)**

1. Building 1 (116 Units)
  - a. Recommend three enclosures each measuring 10x15 feet and located as follows:
    - i. Two on Dixon located at opposite ends of the dwelling units; both enclosures should be near but not at each end for the residents' convenience.
    - ii. Enclosure #3 should be located nearer the 25 dwelling units, rather than the proposed location near the B-2 garage entrance. However, if only two trash enclosures can be sited (i.e., one on Dixon and the other in the proposed location) due to the garage entrance and property line, then service to those 25 dwelling units would be inconvenient, but may not pose any other problems.
  - b. Residents would carry their trash and recyclables to the designated enclosures. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
2. Building 2 (85 Units):
  - a. Recommend two enclosures, each measuring 10x12 feet, and located at opposite ends of the building site, i.e., along the fire lane and near the

property line. If the only trash storage area available is along the fire lane, then service to the 85 dwelling units would need to be a minimum of 4 or possibly 5 times per week. This level of anticipated service is not recommended since service could only be increased to 6 times per week, i.e., Monday - Saturday. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 9.b., *Options Not Recommended for On-Site Storage*.

- b. Residents would carry their trash and recyclables to the designated enclosures.
  - c. The two 3cy bins for trash would require service 3 times each week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
3. Building 3 (80 Units):
- a. Recommend two enclosures, each measuring 10x15 feet, and located at opposite ends of the building site, i.e., along the fire lane and near the property line. If the only trash storage area available is along the fire lane, then service to the 80 dwelling units would need to be 4 or possibly 5 times per week. This level of anticipated service is not recommended since service can only be increased to 6 times per week, i.e., Monday - Saturday. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 6.B., *Options Not Recommended for On-Site Storage*.
  - b. Residents would carry their trash and recyclables to the designated enclosures.
  - c. The two 4cy bins for trash would require service 2x/week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
4. Building 4 (60 Units):
- a. Residential Trash and Recyclables Collection
    - i. Recommend two enclosures, each measuring 10x10 feet, and located at opposite ends of the building site, i.e., along the two fire lanes. None is recommended on Mission Boulevard for residents' use to minimize illegal dumping. If the only trash storage area available is along the fire lane between Dixon and Mission Boulevard, then service to the 60 dwelling units would need to be 4 or possibly 5 times per week from an enclosure that would need to measure 10x15 feet to accommodate a 4cy bin for garbage. This level of anticipated service is not recommended since service can only be increased to 6 times per week. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 9.b., *Options Not Recommended for On-Site Storage*.
    - ii. Residents would carry their trash and recyclables to the designated enclosures.

- iii. The two 2cy bins for trash would require service 3 times each week. Layout would follow 5.b. *Trash Enclosure Layout*.
- b. Four Retail Sites: Estimated trash generation rates for each of the two retail sites are described in Section i, *General Comments*. See also Section 5.a., *Trash Enclosure Dimensions & Layout*.

## **PRIOR TO APPROVAL OF, OR RECORDATION OF, THE FINAL MAP(S)**

### **IMPROVEMENTS**

Improvement plans, including a hydrology map and drainage calculations, and erosion and sediment control plan, a landscaping and irrigation plan, and street lighting plan, shall be submitted to the City Engineer for review and approval. Subject plans shall, in addition to the standard improvements, incorporate the following special design requirements:

#### **Streets**

1. An Encroachment Permit must be obtained prior to the start of any construction within the City of Hayward rights-of-way.
2. An Encroachment Permit must be obtained from the California Department of Transportation (CalTrans) prior to the start of any construction within their right-of-way.
3. Any damaged and/or broken sidewalks along the property frontages shall be removed and replaced as determined by the City inspector.
4. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association or commercial property owners association established to maintain the common areas within the subdivision boundary.
5. The site plan shall be reviewed with the Fire Department and Engineering and Transportation Division to ensure that the street and driveway layout is adequate to provide access for emergency, service and utility vehicles, and other commercial trucks. Changes may be necessary including increasing corner radii, driveway widths or intersection alignments.
6. The developer shall implement the signing and striping for the interior streets as shown on the site plan dated January 26, 2009. Signing and striping plans shall be approved by the City Engineer.

#### **Mission Boulevard**

7. Existing utilities shall be placed underground.

8. Mission Boulevard frontage improvements shall be consistent with the City's Route 238 Corridor Improvement Project plans. Required improvements, including streetlights, shall be installed, and paid for, by the developer at the time of construction on Parcel 4.
9. New decorative street lights shall be installed along the Mission Boulevard street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.

Tennyson Road

10. **Mitigation Measure 14:** The following improvements to the Dixon Street/Tennyson Road intersection shall be made to reduce impacts to an acceptable level: (1) provide split phasing on the Northbound and southbound approaches; (2) provide a right turn overlap (green arrows when the cross-street protected left phases are active) on the Southbound right turn; (3) restripe the northbound approach to provide an exclusive left turn lane and a shared through/right turn lane and prohibit on-street parking; (4) prohibit on-street parking on the southbound approach between the intersection and the driveway for the adjacent townhouses, a distance of about 100 feet back from the cross-walk; and (5) provide protected+permitted phasing for the eastbound and westbound left-turns. Implementation of this mitigation measure will reduce impacts to a less than significant level. Prior to construction, the design will be approved by the City Engineer. The developer will be responsible for 100% of the design and construction costs for this mitigation.
11. Handicap ramps shall be installed where required by the City Engineer.
12. Existing utilities shall be placed underground.
13. Decorative pavements shall be capable of supporting a 50,000 lb. gross vehicle weight load. Curb returns shall have a minimum radius of 30 feet at the curb face, except as otherwise permitted by the City Engineer to allow for truck and bus turning movements.
14. The entry features, signs and monuments shall be designed to not impede sight distances.
15. New decorative streetlights shall be installed along the Tennyson Road street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.

Dixon Street

16. New decorative street lights shall be installed along the Dixon Street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.
17. The existing curb, gutter and sidewalk shall be replaced as determined by the City Engineer.
18. The developer shall construct a traffic signal at the intersection of Dixon Street and the southern entrance into the project (BART parking structure). The design of the traffic signal

shall be approved by the City Engineer. The developer is responsible for paying 100% of the cost of design and construction of this signal.

19. Signage at the signalized intersection shall indicate the direction to the BART parking structure.

#### Interior Public Streets

20. Street intersections shall be designed and constructed per City Standard Detail SD-110A.
21. All interior streets within the development shall be private. The curb return radius shall be 30 feet from the face of the curb, except as otherwise permitted by the City Engineer to allow for truck and bus turning movements.
22. The sidewalk segments on either side of the northwesterly auto entrance to the grocery store parking garage shall be eliminated, as well as the crosswalk at that entrance, except to allow for access to required exits and service entries.
23. Decorative on-site private streetlights shall be installed along all interior streets. Pedestrian lighting shall be provided throughout the development, including interior walkways, to enhance safe pedestrian movement. The location of the lights shall be shown on the improvement plans and shall be approved by the City. Selected fixtures shall minimize “spill-over” lighting on adjacent properties that are not part of the development. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.
24. The party/parties responsible for the maintenance of all interior streets, traffic control, signage and amenities shall be identified.
25. A reciprocal agreement for ingress and egress, and parking, shall be executed between all involved parties, and that document shall be provided to the City for review and approval prior to approval of improvement plans.

#### Parking and Driveways

26. The applicant/developer shall provide sufficient parking spaces for the development to meet the requirements of the City of Hayward Municipal Code, and of BART for its parking structure. Parking stall dimensions and driveways shall meet City requirements as approved by the Planning Director and City Engineer, or as approved by BART for its parking structure.
27. The applicant/developer shall provide a deposit equal to the cost of funding a neighborhood parking survey, as determined by the Director of Public Works, to determine if adequate parking has been provided and whether any deficiency in parking has created parking impacts outside of the project area.



28. ADA compliant parking stalls and loading areas, and handicap ramps and accessible pathways shall be provided throughout the project, per federal and state standards and exceptions.
29. The entry drives of the grocery store and BART parking garages shall be designed to eliminate conflicts with movements into and out off parking spaces, as approved by the City Engineer.
30. Parking for residential uses shall not exceed one space per studio or one-bedroom unit, or 1.3 spaces for units with two or more bedrooms.
31. Parking for non-residential uses shall be provided at a minimum of one space per 315 square feet of gross floor area.

### **Landscaping and Irrigation**

32. Prior to the approval of the improvement plans, a detailed landscaping and irrigation plan for all common areas, front yard areas to fence lines and all rear slope areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City's Landscape Architect. Planting and irrigation plans shall comply with the City's *Hayward Environmentally Friendly Landscape Designs & Checklist*.
33. Prior to issuance of building permits for Parcel 1, the developer shall form a Landscape and Lighting District to fund operation and maintenance of common areas within the development. Prior to approval of the first final map, the developer shall provide a \$10,000 deposit to the City to cover the costs associated with formation of the District. The exact limits of responsibility for the District will be determined during processing of the Precise Plan for the development.
34. Within all required landscape areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed. A hose bib shall be provided within each private open space area.

### **Storm Drainage**

35. The on-site storm drain system within the development, excluding that located within the public right-of-way, shall be a private system owned and maintained by the homeowners association or property owners.
36. The Hydrology and Hydraulics Criteria Summary, Alameda County Flood Control and Water Conservation District, latest edition shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be reviewed and approved by the Alameda County Flood Control and Water Conservation District and the City Engineer. Development of this site is not to augment runoff to the District flood control facility downstream, Zone 3A, Line D. The hydrology study shall substantiate that there will be no net increase in the quantity of

runoff from the site versus the flow rate derived from the original design of Line D and any augmented runoff will need to be mitigated on-site.

37. The proposed realignment of Alameda County Flood Control & Water Conservation District (Flood Control District), Zone 3A, Line D project, a 72-inch storm drain pipe traversing BART's parking lot shall be reviewed and approved by the Flood Control District prior to the approval of improvement plans by the City.
38. An encroachment permit shall be obtained from ACFC&WCD prior to commencement of any work within the Flood Control District right-of-way and for the construction, modification or connection to District-maintained facilities. All workmanship, equipment and materials shall conform to District standards and specifications.
39. **Mitigation Measure 8:** The applicant shall prepare a storm drainage report that includes storm drain calculations associated with expected runoff and downstream drainage facilities and remediate if necessary, to determine adequacy to serve the proposed development. The storm drainage report shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans. Implementation of this mitigation measure will reduce impacts to a less than significant level.
40. **Mitigation Measure 9:** A site-specific drainage plan shall be prepared for the project area prior to approval of the associated grading and improvement plans. The report shall include a summary of existing (pre-project) drainage flows from the project site, anticipated increases in the amount and rate of stormwater flows from the site and an analysis of the ability of downstream facilities to accommodate peak flow increases. The analysis shall also include a summary of new or improved drainage facilities needed to accommodate stormwater increases. The drainage plan shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans. Implementation of this mitigation measure will reduce impacts to a less than significant level.
41. The developer shall provide a copy of the Notice of Intent filed with the State Water Resources Control Board, prior to the issuance of a grading permit for the project site.
42. The project plans shall include storm water measures for the operation and maintenance of the project to be approved by the City Engineer. The project plans shall identify and incorporate Best Management Practices (BMPs) appropriate to the uses conducted onsite to effectively prevent the entry of pollutants into storm water runoff. Roof leaders shall discharge into a landscaped area, where available, prior to storm runoff entering a pipe system. **Mitigation Measure 2:** The applicant shall employ the following basic and enhanced control measures during site construction to address potential temporary air quality impacts: (a) water all active construction areas at least twice daily; (b) cover all trucks hauling soil, sand, and other loose materials; (c) pave, apply water three times daily, or apply soil stabilizers on all unpaved access roads, parking areas and staging areas; (d) sweep daily all paved access roads, parking areas and staging areas; (e) sweep streets daily if visible soil material is

carried onto adjacent public streets; (f) hydro seed or apply soil stabilizers to inactive construction areas or previously graded areas that are inactive for ten or more days; (g) enclose, cover, water twice daily or apply soil binders to exposed stockpiles of dirt, or sand; (h) limit traffic speeds on unpaved roads to 15mph; (i) install sandbags or other erosion control measures to prevent silt runoff to public roadways; (j) replant vegetation in disturbed areas as quickly as possible; (k) install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and (l) suspend excavation and grading activity when winds exceed 25mph. Implementation of this mitigation measure will reduce the impact to a less than significant level.

43. The developer shall prepare a Maintenance Agreement for storm water BMP's constructed as part of this project. The Maintenance Agreement shall be reviewed and approved by the City prior to recordation with the Alameda County Recorder's Office. The Agreement shall be recorded to ensure that the responsibility for maintenance is bound to the property in perpetuity.
44. The project streets, driveways and parking areas shall be designed to facilitate street sweeping, including the layout of the tree and handicap ramp bulb-outs.
45. The project plan measures shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
46. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order.
47. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all the areas tributary to the project area. The developer is required to mitigate augmented runoffs with off-site and/or on-site improvements.
48. All storm drain inlets must be labeled "No Dumping - Drains to Bay" using City approved methods.
49. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.

#### **Sanitary Sewer System**

50. Sanitary sewer service is available subject to standard conditions and fees in effect at the time of application.
51. The development's sanitary sewer mains and manholes, where located on BART or State owned parcels, shall be public, owned and maintained by the City. In the Perry/Key parcel, the sewer main and manholes in the roadway along the northwest property line

shall also be public. Where public sewer mains and manholes are located in an unpaved easement, an all-weather utility truck accessible surface must be provided.

52. All public sewer mains, building court mains, building sewers and appurtenances, shall be constructed in accordance with the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12" Diameter or Less)," latest revision at the time of permit approval.
53. The proposed development will impact the existing City of Hayward Wastewater Collection System. The Development shall be responsible for its share of upsizing downstream sewer mains that have been identified by City staff as having inadequate capacity as a result of the Development's impact, and such share shall be determined by the City.
54. Per Section 11-3.501, "Parcel Frontage Extension for Sewer Mains," of the City Municipal Code, the applicant/developer is required to construct roughly 830 lf of 8" sewer main in Dixon St., from the existing manhole at Sea Mist Ct. towards Tennyson Rd.
55. To better distribute the impact the development will have on the City's Wastewater Collection System, the development's sewer system shall be designed to discharge wastewater to both the existing sewer main in Tennyson Rd. and the new sewer main to be constructed in Dixon St.
56. Each building and retail or commercial space with wastewater shall have an individual sanitary sewer lateral, at a minimum.
57. Any food service establishment shall install a grease control device to control the discharge of fat, oil and grease (grease trap or grease interceptor), unless this requirement is expressly waived by the Director of Public Works. The type, size and location of the device shall be approved by the Deputy Director of Public Works.

### **Water System**

58. Water service is available from the City and is subject to standard conditions and fees in effect at the time of application.
59. All public water mains shall be constructed in accordance with the City's "Specifications for the Construction of Water Mains (12" Diameter or Less) and Fire Hydrants," latest revision at the time of permit approval.
60. The existing South Hayward BART station site is currently served by an 8" water main that connects to the 8" water main in Dixon St. and dead ends at a fire hydrant near the middle of the site. This existing water main will be insufficient for the proposed development. The proposed development will impact the existing City water system. To mitigate this impact and provide the area with sufficient fire flows for the proposed structures, the applicant/developer shall construct approximately 1800 LF of new 12" public water main that connects to the existing 12" water main in Tennyson Rd., heads

southeast across the South Hayward BART site, turns and heads northeast between parcels 3N and 3S, connects to the existing 8" water main in Dixon St., continues northeast across the Perry/Key parcel and connects to the existing 12" water main in Mission Blvd. Additional public water mains may be needed to provide water service to other areas of the development, as determined by the Director of Public Works and the Fire Chief.

61. The existing South Hayward BART 8" water main shall be abandoned and removed where it connects to the existing 8" water main in Dixon St, by City Water Distribution personnel at the applicant's/developer's expense. The existing on-site 8" and 6" asbestos cement water mains shall be removed and disposed of by the applicant/developer in accordance with State and Federal (EPA) requirements.
62. The development's water mains shall be public, owned and maintained by the City. The water mains shall be configured in a looped system and located 5 feet from the face of curb.
63. Where a public water main is in an unpaved easement or under decorative, stamped, or colored concrete (including turf-blocks), the water main shall be constructed of ductile iron. Shut-off valves are required where a water main transitions from a paved area to an unpaved easement.
64. Each dwelling unit and retail or commercial space shall have an individual domestic water meter.
65. Separate irrigation water meters shall be installed for landscaping purposes.
66. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each commercial and irrigation water meter, per City Standard SD-202.
67. All fire services shall have a Double-Detector Check and Trim/Fire meter installed by City Water Distribution Personnel at the applicant's/developer's expense, per City Standard SD-204. Minimum sizing shall be per Fire Dept. requirements.
68. All domestic, commercial and irrigation water meters shall be Radio-Read type.
69. Water meters and services shall be located a minimum of two feet from the top of driveway flairs, per City Standard Detail SD-213 thru SD-218.
70. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one foot vertically above, any parallel pipeline conveying untreated sewage (including a sanitary sewer laterals), and at least four feet horizontally from and one foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials.

### Utilities

71. All utility services shall be "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T, and Comcast regulations.



Transformers, and switch gear cabinets, shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.

72. The developer shall submit conceptual undergrounding plans with the Precise Plan submittal.
73. The developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a City-owned and –maintained fiber optic network within the subdivision.
74. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.
75. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.

### **Fire Protection**

76. The new site and circulation plan submitted appears to be suitable with the exception of the south areas of the Perry and Key mixed use residential / commercial project, as well as the west side of Parcel 2 ( residential over parking structure) and Parcel 4 (BART Parking structure) where access is restricted on one side of the buildings mentioned above. Areas where access is restricted or ladder operations and aerial ladder operations are not possible, shall provide features matching the high rise requirements of the 2007 CFC and CBC, in order to make fire fighting operations possible including rescue and evacuation of the building. A request has been made to omit the installation of an emergency generator as one of the construction features matching the high rise requirements of the 2007 CFC and CBC. The request will be entertained at the time of construction plans submittal with an official AMP request to the Fire chief.
77. Fire department operations required to use a 26' access roadway with a 13'-6" vertical clearance in areas where the building exceeds 35' in height. All finished surface of fire department access roadways shall be designed and engineered to withstand the GVW of 50,000 lbs. Fire department access from the podium shall be in such way as to present a safe access way from grade level, up through the exterior stairwell to the podium to allow firefighters for safe laddering operations at the podium level. Roof firefighting operations will be performed from the 26' fire department access, providing the roof line of all buildings is accessible from the fire department access roadways.
78. Existing fire hydrants and fire flows need to be noted on improvement plans. Fire flows of the total square footage of the buildings will be verified at the time of submittal to identify the need for the fire hydrant spacing requirements. Fire hydrants on Commercial/High density projects need to be spaced within 300 feet of each other. The fire hydrants shall be capable of delivering a fire flow of 5000 GPM @ 20 PSI. (50% reduction of the fire flow is allowed due to the buildings being protected with an automatic fire sprinkler system thus

the fire flow per fire hydrant shall be 2500GPM @ 20 PSI). New private fire hydrants shall be Modified Double steamer with (1) 4-1/2" outlet and (1) 2-1/2" outlet. Public fire hydrants shall be equipped with (2) 4-1/2" outlets and (1) 2-1/2" outlet. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants. Vehicular protection may be required for the fire hydrants.

79. Underground fire service lines shall be reflected on the plans, establishing the locations of each underground fire service line for the commercial structures as well as the multi-family buildings, including underground fire sprinkler laterals, locations of PIV, FDC and fire hydrants. Installation of underground fire service line shall be installed as per NFPA 24 and COH Standard Requirements. Underground fire service lines shall be looped.
80. The proposed structures within this development shall be protected with an automatic fire sprinkler system as per NFPA 13 Standards. Buildings shall be provided with not less than one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections at accessible locations adjacent to such usable stairs. Standpipe systems shall be extended as construction progresses. At each floor landing a 2-1/2" valve outlet shall be provided for fire department use as well as inside the corridors of every floor. Where construction height requires the installation of class 1 standpipe, fire pumps and water main connections shall be provided to serve the standpipes. Standpipes shall be accessible in the finished building in the stairwells and interior corridors. Design and installation of the class -1 wet standpipe systems shall be in conformance with NFPA-14 Standards. Underground fire service laterals for fire sprinkler systems as well as fire department connections and post indicators valves shall be installed in acceptable locations as approved per the fire department.
81. Fire alarm system shall be provided as per NFPA 72 Standards for all buildings within the complex. Individual buildings shall be provided with their own designated fire alarm and each fire sprinkler system riser shall have exterior local alarm bell(s). Interior notification device(s) shall be installed within each living unit and within the commercial spaces. The alarm shall be activated upon any fire sprinkler system waterflow activity.
82. A manual and automatic fire alarm (evacuation) system shall be required for the buildings. The system shall include common areas, smoke detectors, manual pull stations and audible and visual devices. The system shall also meet ADA compliance and elevator recall system.
83. Each building with residential units shall have its own fire alarm addressing and its own fire control center tied into a PA system/ alarm enunciator system/ evacuation system.
84. Each building with residential units shall have its own fire alarm addressing and its own fire control center tied into a PA system/ alarm enunciator system/ evacuation system.
85. Pressurization/smoke removal/ rated corridors or any other building features that would be provided for high rise buildings would have to be incorporated to any floors where fire department ladder operations are not possible due to building construction features that would impede the deployment of the ladders or aerial ladder operations for rescue or fire

fighting operations. These features may include any part of the building exceeding 30' (Feet) in height from a fire apparatus access where the Fire Marshal feels it is essential to the safe evacuation of residents and firefighting operations during an actual fire situation.

86. Building exiting requirements shall meet the latest adopted edition of the 2007 CBC, Chapter 10, or such code in effect at the time of submittal of building permit applications.
87. Extinguisher placement shall conform to CFC, Chapter 9.
88. Address and premise identification approved numbers shall be placed on all buildings in such a position as to be plainly visible and legible from the road or street fronting the property. Dimensions of address numbers or letters on the front of the buildings shall be approved by the Fire Department.

#### **Dedications, Easements and Deed Restrictions**

89. The final map shall reflect:
  - a. Six-foot-wide public utility easements (PUE) along the edge of the public/private streets where necessary as determined by the City Engineer.
  - b. Dedication of all right-of-way and easements for the new water main extension, including access roads.

#### **Subdivision Agreement**

90. Execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements per Section 10-3.332, Security for Installation of Improvements, of the Municipal Code. Insurance shall be provided per the terms of the subdivision agreement.

#### **PRIOR TO ISSUANCE OF GRADING PERMITS**

91. **Mitigation Measure 4:** Prior to any grading or site earthwork, the applicant shall submit an Erosion and Sediment Control Plan to the City for review and approval, as part of improvement plans. The Plan shall incorporate measures consistent with the City's Grading Ordinance and Best Management Practices for construction projects. Implementation of this mitigation measure will reduce impacts to a less than significant level.
92. **Mitigation Measure 6:** Prior to construction/grading permits being issued and a certificate of occupancy being granted, the applicant shall obtain environmental and health based clearances from the department of Toxic Substances and Hayward Fire Department-Hazardous Materials Section. Some allowances for grading or construction may be granted if specifically requested in writing and allowed by the Department of Toxic Substances Control and the Hayward Fire Department.
93. **Mitigation Measure 7:** The applicant shall submit an erosion and sediment control plan and a stormwater pollution prevention plan (SWPPP) as part of the Grading and

Improvement Plan application submittal, utilizing best management practices in accordance with the Alameda County Clean Water Program NPDES Permit Section C.3, including but not limited to limiting periods during which grading occurs.

94. **Mitigation Measure 12:** A Construction Noise Management Plan shall be prepared for the project. The plan shall specify measures to be taken to minimize construction noise on surrounding developed properties. The Noise Management Plan shall be approved by City staff prior to issuance of grading or building permits and shall contain, at minimum, a listing of hours of construction operations, a requirement for the use of mufflers on construction equipment, limitation on on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor plans and specifications. Implementation of this mitigation measure will reduce impacts to a less than significant level.
95. The developer shall complete a Development Building Application Form Information comprised of 1) Impervious Material Form and 2) Operation and Maintenance Information Form.
96. A copy of the Notice of Intent (NOI) from the State Water Resources Control Board shall be provided to the City.
97. Prior to the issuance of a grading permit, the developer shall provide a tree preservation bond, surety or deposit, equal in value to the trees to be preserved on the site that are within 50 feet of any grading or construction. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition, as determined by the City's Arborist.
98. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the issuance of a grading or building permit, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes and per tree preservation guidelines, including installation of tree protection fencing prior to the start of grading, as recommended by the project consulting arborist. A tree removal permit is required prior to the removal of any tree. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.
99. A formal agreement with BART shall be delivered to the City for its review and approval regarding the construction of the BART parking structure, which shall identify project phasing and construction coordination to ensure that there is no disruption of bus service.
100. A formal agreement with AC Transit shall be delivered to the City for its review and approval regarding the construction of the bus transfer facilities, which shall identify project phasing and construction coordination to ensure that there is no disruption of bus service.

### **PRIOR TO ISSUANCE OF BUILDING PERMITS**

101. Prior to the approval of improvement plans or issuance of the first building permit, detailed landscaping and irrigation plans for all common areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and irrigation plans shall comply with the City's Hayward Environmentally Landscape Designs & Checklist.
102. Prior to issuance of the first building permit, the final map shall be approved by the City and filed with the County Clerk-Recorder Office.
103. **Mitigation Measure 3:** The applicant shall have prepared a geotechnical investigation by a licensed geotechnical engineer, which will outline recommendations for construction given the location of the project site near the Hayward fault. Submittal of the geotechnical report shall be submitted as part of the building permit application. Implementation of this mitigation measure will reduce impacts to a less than significant level.
104. **Mitigation Measure 5:** The applicant shall submit a detailed soils report, prepared by a licensed geotechnical engineer, as part of the building permit application that demonstrates the type of construction suitable for the project site, based on recommendations in the soils present. Implementation of this mitigation measure will reduce impacts to a less than significant level.

### **PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS**

105. Required water system improvements shall be completed and operational prior to the start of combustible construction to the satisfaction of the Fire Chief.

### **DURING CONSTRUCTION**

106. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
  - a. Grading and construction activities shall be limited to the hours 7:00 AM to 6:00 PM on weekdays and Saturdays; there shall be no grading or construction activities on Sundays or holidays;
  - b. Grading and construction equipment shall be properly muffled;
  - c. Unnecessary idling of grading and construction equipment is prohibited;
  - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
  - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information, including the residents/owners at properties in the Beatron Way neighborhood and within Spanish Ranch II Mobilehome Park.
  - f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences



- find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction.
- g. The developer shall participate in the City's recycling program during construction;
  - h. Daily clean-up of trash and debris shall occur on Dixon Street, Tennyson Road and Mission Boulevard and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
  - i. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
  - j. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
  - k. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
  - l. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
  - m. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
  - n. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
  - o. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
  - p. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
  - q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
  - r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
  - s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
  - t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
  - u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "*Building Maintenance/Remodeling*" flyer for more information;
  - v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
  - w. The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division,

the Alameda County Department of Health and the Regional Water Quality Control Board.

107. A representative of the soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe grading operations with recommended corrective measures given to the contractor and the City Engineer.
108. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
109. The developer shall be responsible to adhere to all aspects of the Storm Water Pollution Prevention Plan (SWPPP) as approved per conditions of approval above.
110. Construction Administration services shall be provided by the project landscape architect. Services to include:
  - a. Observation of irrigation system before burying pipes;
  - b. Observation of plant material upon delivery to the site;
  - c. Observation of layout and placement of plant material upon delivery to the site;
  - d. Observation for maintenance period commencement; and
  - e. Observation for final acceptance.

**PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY**

111. The final map shall be filed and approved by the City and recorded in the County Recorder's Office prior to the issuance of a Certificate of Occupancy of any unit.
112. The developer shall pay all required fees, including those indicated below, with the amount of such fees to be in accordance with the fee schedule in effect at the time of issuance of the building permits, unless otherwise specified:
  - a. Supplemental Building Construction and Improvement Tax;
  - b. Building Construction and Improvement Tax;
  - c. School Impact Fee;
  - d. Water facilities Fee (payable prior to final inspection);
  - e. Sewer Connection Fee for each dwelling unit at the rate in effect when the utility service permit for the dwelling unit is issued; and
  - f. Park dedication in-lieu fees for each dwelling unit shall be calculated at the rate in effect when the building permit for unit is issued.
113. Subject to agreement with the developer, additional payment shall be made toward development of a community center at Mission Boulevard and Valle Vista Avenue, or at another location within the South Hayward BART/Mission Boulevard Corridor Concept Design Plan, associated with the 206 affordable housing units. Such contribution shall equal an in-lieu fee amount for the 206 affordable units, minus the cost of acquiring and developing the Caltrans parcels for group open space and recreation. Such areas shall be offered for public recreation use.

114. Any damaged curb, gutter and/or sidewalk along the Tennyson Road, Dixon Street and Mission Boulevard property frontages shall be repaired or replaced to the satisfaction of the City Engineer.
115. All common area landscaping, irrigation and other required improvements in the current phase shall be installed according to the approved plans.
116. The on-site street light electroliers shall be in operating condition as approved by the Planning Director and the City Engineer.
117. Prior to occupancy of all the Eden Housing units on Parcels 1 and 2, the grocery store shall be occupied and open for business to the public.

**PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED**

118. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
119. The developer shall submit a final statement of water main extension costs and notarized bill of sale to the Utilities Administration prior to application for water service.
120. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80% of the dwelling units, whichever first occurs. All individual lot landscaping shall be installed prior to occupancy of each unit and prior to the final acceptance of tract improvements.
121. Prior to completion of tract improvements for the development proposed east of Dixon Street, the developer shall acquire, improve, and offer for dedication for public use the adjacent Caltrans parcels. As an alternative, the developer shall make a contribution to the Hayward Area Recreation & Park District equal to the cost to fully acquire and improve these parcels. In the event that the requisite land for group open space is not acquired prior to completion of tract improvements, the developer shall (1) enter an agreement with the City to complete the improvements at such time the City acquires an interest in the land that will permit the improvements to be made, or (2) the developer shall pay the total amount of park in-lieu fees required for the requisite land, at the City's sole discretion. The developer shall also be responsible for any costs associated with City's efforts to acquire such land.
122. An AC overlay along Tennyson Road, Dixon Street and Mission Boulevard may be required by the City Engineer, if it is determined that it is necessary due to deterioration resulting from heavy traffic during the construction of the development.
123. The improvements associated with the Pacific Gas and Electric Company, EBMUD, Comcast and SBC shall be installed to the satisfaction of the respective companies.

124. Landscape improvements and street trees shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy for each unit.
125. The subdivider shall submit an "as built" plan indicating the following:
  - a. All the underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric Company, SBC and Comcast, etc; and
  - b. All the site improvements, except landscaping species, buildings and appurtenant structures.

Homeowners Association

126. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping and open space amenities as depicted on the approved tentative tract map. The exact limits of responsibility for the Association will be determined during processing of the Precise Development Plan for the development.
127. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Covenants, Conditions and Restrictions (CC&R's) shall be prepared for the project which shall be reviewed and approved by the Planning Director and City Attorney that shall include the following provisions:
  - a. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
  - b. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
  - c. The association shall be managed and maintained by a professional property management company.
  - d. The homeowners' association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within 14 days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
  - e. A provision that if the homeowners' association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
  - f. A requirement that the building exteriors and amenities shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.

- g. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
- h. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.
- i. Any transformer shall be located underground and shall be located outside any front or side street yard.
- j. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- k. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
- l. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association established to maintain the common areas within the subdivision boundary.
- m. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.
- n. Contribution to the Community Facilities District to pay for proportionate share of the cost for public services, including police services.
- o. Contributions to fully fund implementation of measures to relieve potential overflow parking impacts, including such measures as implementing, funding and administering of a residential parking permit program according to City requirements, increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking, using time restrictions to improve turnover and provide a pool of short-term parking.

Commercial Property Owners' Association

- 128. Prior to the acceptance of site improvements, a Commercial Property Owners' Association (CPOA) shall be created to maintain the frontage landscaping and other amenities as depicted on the approved tentative tract map. The exact limits of responsibility for the Association will be determined during processing of the Precise Development Plan for the development. The City shall have the ability to place liens on all private properties within the development if the CPOA fails to fulfill its maintenance obligations.
- 129. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Covenants, Conditions and Restrictions (CC&R's) shall be prepared for the project which shall be reviewed and approved by the Planning Director and City Attorney that shall include the following provisions:
- 130. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
  - a. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
  - b. The association shall be managed and maintained by a professional property management company.



- c. The association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within 14 days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
- d. A provision that if the association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
- e. A requirement that the building exteriors and amenities shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.
- f. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
- g. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.
- h. Any transformer shall be located underground and shall be located outside any front or side street yard.
- i. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- j. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
- k. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the association established to maintain the common areas within the subdivision boundary.
- l. Streetlights and pedestrian lighting shall be owned and maintained by the association and shall have a decorative design approved by the Planning Director and the City Engineer.
- m. Contribution to the Community Facilities District to pay for proportionate share of the cost for public services, including police services.

#### **ONE YEAR AFTER PROJECT BUILDOUT**

131. **Mitigation Measure 15:** One year after build out and occupancy of the project, the developer or the developer's designee, shall conduct a neighborhood parking survey to determine if adequate parking has been provided. If the results of the survey indicate

substantial impacts to the surrounding areas, as determined by Hayward Engineering and Transportation Planning staff, then the developer or the developer's designee shall incorporate measures to reduce impacts to a less than significant level. The City of Hayward Traffic Regulations Section 3.95 indicates that a significance threshold for a residential parking permit program would be met if 75% of all on-street parking spaces within six adjacent block faces are occupied during any two one-hour periods between 8am and 6pm. Such measures to address potential impacts may include, but are not limited to: implementing, funding and administering a residential parking permit program according to City requirements, increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking, using time restrictions to improve turnover and provide a pool of short-term parking. Implementation of this mitigation measure will reduce impacts to a less than significant level.

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-026

Introduced by Council Member Quirk

RESOLUTION APPROVING THE SUBMITTAL OF AN  
APPLICATION TO THE CALIFORNIA STATE DEPARTMENT  
OF HOUSING AND COMMUNITY DEVELOPMENT FOR  
FUNDING UNDER THE INFILL INFRASTRUCTURE GRANT  
PROGRAM, PROPOSITION 1C

WHEREAS, the City of Hayward wishes to apply for and receive an allocation of funds through the Infill Infrastructure Grant Program (Proposition 1C); and

WHEREAS, the California Department of Housing and Community Development (hereinafter referred to as "HCD") has issued a Notice of Funding Availability ("NOFA") for the Infill Infrastructure Grant Program established under the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C), pursuant to the Infill Infrastructure Grant Program established as Part 12 of Division 31 of the Health and Safety Code, commencing with Section 53545.12. Pursuant to that statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature, subject to the terms and conditions of the statute and the Infill Infrastructure Grant Program Guidelines implemented January 30, 2009; and

WHEREAS, the City of Hayward wishes to submit an application to obtain from HCD an allocation of the Infill Infrastructure Grant Program funds in the amount of \$30,000,000.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hayward that:

1. The City of Hayward shall submit to HCD an application to participate in the Infill Infrastructure Grant Program in response to the NOFA issued on January 30, 2009, which will request a funding allocation in the amount of \$30,000,000 for the following activities: The development of the South Hayward Mixed Use Project, a transit-oriented development, comprised of 788 housing units, including 206 units of affordable housing, a 58,500 square-foot Safeway supermarket, residential and commercial parking and a seven-level 910-space parking structure to serve the South Hayward BART Station. The South Hayward Mixed Use Project is located at 28601 and 28850 Dixon Street and 28901-28953 Mission Boulevard, Hayward, California.
2. If the application for funding is approved, the City of Hayward hereby agrees to use the Infill Infrastructure Grant Program funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program Guidelines cited above.

It also may execute any and all other instruments necessary or required by HCD for participation in the Infill Infrastructure Grant Program.

3. The City Manager is hereby authorized to execute in the name of the City of Hayward the application, the Standard Agreement, and all other documents required by HCD for participation in the Infill Infrastructure Grant Program, and any amendments thereto.

IN COUNCIL, HAYWARD, CALIFORNIA March 17, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermeno, Quirk, Halliday, May, Dowling, Henson  
MAYOR: Sweeney

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: Miriam Lens  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

Michael S. Furt

City Attorney of the City of Hayward



I hereby certify that this is a correct copy of a document on file in this office

MIRIAM LENS

City Clerk, City of Hayward, California

By: Miriam Lens  
Deputy

Date: March 24, 2009